Petition

81-2055

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SUPREME COURT OF THE UNITED STATES

October Term, 1981
No.

ROBERT J. KONDRAT,
Petitioner,

vs.

ATTORNEY GENERAL OF THE UNITED STATES
Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

PETITION FOR WRIT OF CERTIORARI

ROBERT J. KONDRAT, Pro Se
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Willoughby Hills, Ohio 44092
(216) 944 0140

ATTORNEY GENERAL OF U.S.
Department of Justice
Washington, D.C. 20530

QUESTIONS PRESENTED FOR REVIEW

I. Are the following acts infringements of the First Amendment to the United States Constitution, when the acts are committed to impede, stifle and quench the right to petition the government for a redress of grievances?

a) Threats to sue citizens;

b) Petition tampering; and

c) Conspiring to fabricate probable cause.

II. Is the United States Attorney General required to defend citizens in litigation that stems from the infringement of constitutional rights?

III. Is it an abuse of power and considered harsh, cruel and unusual punishment to have a citizen secretly indicted, arrested, incarcerated and subjected to a criminal trial for the alleged crime of a petition defect?

LIST OF ALL PARTIES

ROBERT J. KONDRAT

Petitioner,

vs.

ATTORNEY GENERAL OF THE UNITED STATES

Respondent.

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State of Ohio vs. Robert Kondrat, Case No. 76 CR 473, Lake County Common Pleas Court, Painesville, Ohio..... 5

OPINIONS BELOW

The United States District Court, Northern District Eastern Division, in Case No. C81-274 on March 4, 1981, dismissed Petitioner's Complaint for the reason that Petitioner failed to state a claim upon which relief can be granted:

On March 18, 1982, the United States Court of Appeals for the Sixth Circuit, in Case No. 81-3172, concluded that Petitioner's Complaint failed to state a claim for which relief could be granted.

JURISDICTIONAL STATEMENT

The date of the decree sought to be reviewed is March 18, 1982. The statutory provision conferred on this court to review the decree in question by writ of certiorari, is Article III of the Constitution of the United States, which created the Supreme Court as a constitutional court, giving judicial power to all cases, in law and equity, that arises under the United States Constitution.

CONSTITUTIONAL PROVISIONS

The constitutional provisions which the case involves are as follows:

a) Article VI of the U.S. Constitution which binds judicial officers by oath or affirmation to support the U.S. Constitution.

b) The First Amendment which prohibits abridging the freedom to petition the government for a redress of grievances.

c) The Eight Amendment which prohibits cruel and unusual punishments.

STATEMENT OF THE CASE

Petitioner was a circulator of petitions that petitioned the City of Willoughby Hills, Ohio government for a redress of grievances, a right guaranteed by the First Amendment to the U.S. Constitution. In addition, the charter of the city of Willoughby Hills, Ohio states in part the following:

> "if any petition be found insufficient or incorrect in form or substance, the petitioner shall be notified of the findings, including what particulars have been found defective. Any petition may be amended at anytime within a 10-day grace period after notification and refiled."

Although the city officials had knowledge of alleged petition defects, they concealed this information from the Petitioner. After expiration of the 10-day grace period, the city officials sought and

were successful in obtaining secret indictments. Petitioner was arrested, incarcerated and made to stand trial. The subsequent trial of Petitioner exposed the city officials scheme and a verdict was returned in favor of the Petitioner.

Because the city officials infringed upon the Petitioner's constitutional rights by threatening the citizenry during the petitioning period; and by tampering with the petitions after being entrusted into the care of the city; and because the city officials fabricated probable cause to have Petitioner indicted, the Petitioner protested the city officials' actions. Petitioner's protest was in the form of placing into an escrow account a portion of Petitioner's city income tax money, to be held in the escrow account until justice prevailed over the city officials' acts.

Thereafter, a complaint naming the Petitioner as defendant was filed by officials seeking the withheld tax money. The Petitioner sought the Attorney General to investigate and prosecute the officials who had infringed on the constitutional rights of

Petitioner, and asked that the Attorney General defend Petitioner in litigation stemming from the infringement of constitutional rights. After the Attorney General failed to respond, the Petitioner filed his Complaint to compel the Attorney General to act. The District Court dismissed the case on the basis that the Petitioner's Complaint failed to state a claim upon which relief can be granted. Petitioner appealed to the Sixth Circuit Court of Appeals which affirmed the District Court's Order.

ARGUMENT

The lower courts have ruled that there has been a failure to state a claim upon which relief can be granted. The Petitioner argues that the claim is stated, and that the claim is a CLAIM OF LIBERTY. The Petitioner has asked the lower courts to provide the Petitioner the liberties that are guaranteed by the United States Constitution.

The right to petition the government for a redress of grievances by soliciting signatures on petitions is a liberty guaranteed by the First Amendment of the U.S. Constitution. Petitioner

alleges that this right was infringed upon by local governmental officials who conducted a campaign of threatening citizens and tampering with the petitions, acts which were designed to impede and stifle the Petitioner's right under the First Amendment. To quench the Petitioner's right under the First Amendment, Petitioner alleges that the governmental officials conspired to fabricate probable cause to have the Petitioner secretly indicted, arrested, incarcerated and made to stand trial. The Petitioner was accused of committing the heinous crime of having a petition defect which was alleged that the Petitioner did not witness the affixing of a signature on a petition.

To protest the acts of the governmental officials, the Petitioner placed into an escrow account a portion of the city income tax due the city and from which the salaries of the officials are paid. The right to protest is inherent in our form of government. The very existance of our freedoms is dependant upon it. Whether the protest is made in the form of withholding tax money, or whether it be by a march through Selma, Alabama, the cries of both are

for the same purpose. That purpose is to complain of the injustices suffered. Injustices brought about by the refusal of one to acknowledge the rights of another.

The Attorney General and the U.S. Department of Justice have the responsibility of protecting the constitutional rights of every citizen in our nation. They are required to come to the aid of and defend anyone subjected to the infringement and abridgement of any constitutional rights. Also, it is required to treat all people equally. Discriminatory practices that provide liberties to some and deny it to others, was not the intent of our forefathers.

The Petitioner's cries to the Attorney General have been loud and clear. The Attorney General has listened with a turned back. The Petitioner does have some rights in this country. Among those rights is the right to go about peacefully soliciting signatures on a petition without interference. If everyone that carried a petition soliciting signatures were made to stand trial for an alleged petition defect, our liberties would cease and

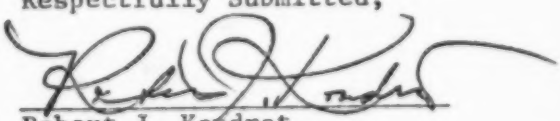
there would be no freedom.

The role of the Attorney General in the matter of civil rights is well established. Hence, no conclusions of law are given. Furthermore, since the Petitioner is not an attorney and therefore not capable of drafting a perfect legal composition, there can be no excuse for the lower courts to circumvent justice by taking advantage of the Petitioner's lack of knowledge of the law. The Petitioner did not wish the part of an attorney upon himself. It was forced upon the Petitioner. The Petitioner has attempted to do the best he knows how. The Petitioner's evidence presented in the lower court shows the liberties guaranteed by U.S. Constitution; and it shows the infringements and abridgement of these liberties. If the words are not there, the graphics display the Petitioner's claim. Justice cannot be ignored for the sake of wording. The judiciary must view everything in its broadest sense. Law is not an exacting science like physics that requires preciseness to function. Law requires an understanding; the capacity to read into the gray areas; and the ability to deal fairly. It is judgment that is dom-

inate, not formulation.

The courts should be capable of reading into a pleading and know what the claim is, what is meant, wanted and expected, even though the author may not have stated it properly or at all. If the court is not flexible enough to do this, then it is useless to anyone who is forced to seek justice without the benefit of counsel. The lack of the correct terminology is no justification for the courts to avoid justice. Each case is unique in its own way, just as every person is an individual. And, each case must be treated separately on its own, just as each person expects to be recognized as his own self.

Respectfully Submitted,



Robert J. Kondrat

SERVICE

Copies of the foregoing PETITION FOR WRIT OF CERTIORARI were mailed by certified U.S. mail, postage prepaid, on this 3rd day of May, 1982, to the Solicitor General, Dept. of Justice, Washington,D.C.

Appendix

SUPREME COURT OF THE UNITED STATES

October Term, 1981

No.

ROBERT J. KONDRAT

Petitioner

vs.

ATTORNEY GENERAL OF THE UNITED STATES

Respondent

APPENDIX A

NO. 81-3172

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

ROBERT J. KONDRAT	)	
Plaintiff-Appellant	)	
v.	)	O R D E R
UNITED STATES DEPARTMENT OF JUSTICE	)	
Defendant-Appellee	)	

BEFORE: LIVELY and JONES, Circuit Judges; and CELEBREZZE, Senior Circuit Judge

This appeal has been referred to a panel of the Court pursuant to Rule 9(a), Rules of the Sixth Circuit. After examination of the record and briefs, this Court agrees unanimously that oral argument is not needed. Rule 34(a), Federal Rules of Appellate Procedure.

On February 20, 1981, plaintiff filed his complaint in the district court against the United States Department of Justice. On March 4, 1981, the district court sua sponte dismissed the complaint for failure to state a claim upon which relief

could be granted.

Having carefully examined the record and briefs of both parties, this Court finds no error in the district court's conclusion that plaintiff's complaint failed to state a claim for which relief could be granted. Accordingly,

It is ORDERED that the order of the district court of March 4, 1981, be, and it hereby is, affirmed. Rule 9(d)3, Rules of the Sixth Circuit.

ENTERED BY ORDER OF THE COURT

_____
Clerk

Issued as Mandate: April 9, 1982
Costs: None

Filed: March 18, 1982

Signed by Clerk John P. Hehman
Attested by Deputy Clerk

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF OHIO

EASTERN DIVISION

ROBERT J. KONDRAT	)	CIVIL ACTION NO.C81-274
	)	
Plaintiff	)	
	)	
v.	)	O R D E R
	)	
U.S. DEPARTMENT OF JUSTICE	)	
	)	
Defendant	)	

Upon consideration of the Complaint filed in this cause, the Court finds that Plaintiff has failed to state a claim upon which relief can be granted. Accordingly, the Complaint is hereby dismissed pursuant to Rule 58, Federal Rules of Civil Procedure.

IT IS SO ORDERED.

ANN ALDRICH
UNITED STATES DISTRICT
JUDGE

Signed by Ann Aldrich

Time-Stamped March 4, 1981